

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:18-cv-02842-CJN**

AMERICAN OVERSIGHT v. U.S. DEPARTMENT OF
HOMELAND SECURITY et al
Assigned to: Judge Carl J. Nichols
Cause: 05:552 Freedom of Information Act

Date Filed: 12/04/2018
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

AMERICAN OVERSIGHT

represented by **Austin Ridgely Evers**
AMERICAN OVERSIGHT
1030 15th Street, NW
Suite B255
Washington, DC 20005
(202) 869-5245
Fax: (202) 871-6523
Email: austin.evers@americanoversight.org
ATTORNEY TO BE NOTICED

Glenn S. Kerner
GOODWIN PROCTER, LLP
The New York Times Building
620 Eighth Avenue
New York, NY 10018
(212) 459-7460
Fax: (212) 355-3333
Email: Gkerner@goodwinlaw.com
PRO HAC VICE
ATTORNEY TO BE NOTICED

John M. Ilardo
GOODWIN PROCTER LLP
100 Northern Avenue
Boston, MA 02210
(617) 570-1523
Email: JIlardo@goodwinlaw.com
ATTORNEY TO BE NOTICED

Stephen L. Taeusch
GOODWIN PROCTER LLP
3 Embarcadero Center
San Francisco, CA 94111
(415) 733-6180
Email: STaeusch@goodwinlaw.com
ATTORNEY TO BE NOTICED

Joseph Francis Yenouskas
GOODWIN PROCTER, LLP
901 New York Avenue, NW
Suite 900, 9th Floor East
Washington, DC 20001
(202) 346-4000
Fax: (202) 346-4444
Email: jyenouskas@goodwinlaw.com
ATTORNEY TO BE NOTICED

V.

Defendant

**U.S. DEPARTMENT OF
HOMELAND SECURITY**

represented by **Scott Leeson Sroka**
 U.S. ATTORNEY'S OFFICE FOR THE
 DISTRICT OF COLUMBIA
 555 Fourth Street, NW
 Washington, DC 20530
 (202) 252-7113
 Fax: (202) 252-2599
 Email: scott.sroka@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant**U.S. CUSTOMS AND BORDER
PROTECTION**

represented by **Scott Leeson Sroka**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant**U.S. IMMIGRATION AND
CUSTOMS ENFORCEMENT**

represented by **Scott Leeson Sroka**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant**U.S. CITIZENSHIP AND
IMMIGRATION SERVICES**

represented by **Scott Leeson Sroka**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

| Date Filed | # | Docket Text |
|------------|----------|---|
| 12/04/2018 | <u>1</u> | COMPLAINT against U.S. CITIZENSHIP AND IMMIGRATION SERVICES, U.S. CUSTOMS AND BORDER PROTECTION, U.S. DEPARTMENT OF HOMELAND SECURITY, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (Filing fee \$ 400 receipt number 0090-5822243) filed by AMERICAN OVERSIGHT. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Summons)(Yenouskas, Joseph) (Entered: 12/04/2018) |
| 12/04/2018 | <u>2</u> | LCvR 26.1 CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests by AMERICAN OVERSIGHT. (Yenouskas, Joseph) Modified event title on 12/17/2018 (znmw). (Entered: 12/04/2018) |
| 12/04/2018 | <u>3</u> | MOTION for Leave to Appear Pro Hac Vice :Attorney Name- Glenn S. Kerner, :Firm- Goodwin Procter LLP, :Address- 620 Eighth Avenue. Phone No. - (212)459-7460. Fax No. - (212)355-3333 Filing fee \$ 100, receipt number 0090-5822321. Fee Status: Fee Paid. by AMERICAN OVERSIGHT (Attachments: # <u>1</u> Declaration, # <u>2</u> Text of Proposed Order)(Yenouskas, Joseph) (Entered: 12/04/2018) |
| 12/04/2018 | <u>4</u> | MOTION for Leave to Appear Pro Hac Vice :Attorney Name- John M. Ilardo, :Firm- Goodwin Procter LLP, :Address- 100 Northern Avenue. Phone No. - (617) 570-1523. Fax No. - (617) 523-1231 Filing fee \$ 100, receipt number 0090-5822415. Fee Status: Fee Paid. by AMERICAN OVERSIGHT (Attachments: # <u>1</u> Declaration, # <u>2</u> Text of Proposed Order)(Yenouskas, Joseph) (Entered: 12/04/2018) |
| 12/04/2018 | <u>5</u> | MOTION for Leave to Appear Pro Hac Vice :Attorney Name- Stephen L. Taesuch, :Firm- Goodwin Procter LLP, :Address- 3 Embarcadero Center, San Francisco, CA 94111. Phone No. - (415) 733-6180. Fax No. - (415) 677-9041 Filing fee \$ 100, receipt number 0090-5822485. Fee Status: Fee Paid. by AMERICAN OVERSIGHT (Attachments: # <u>1</u> Declaration, # <u>2</u> Text of Proposed Order)(Yenouskas, Joseph) (Entered: 12/04/2018) |
| 12/06/2018 | | Case Assigned to Judge Colleen Kollar-Kotelly. (zrdj) (Entered: 12/06/2018) |

| | | |
|------------|-----------|--|
| 12/06/2018 | | SUMMONS Not Issued as to U.S. CITIZENSHIP AND IMMIGRATION SERVICES, U.S. CUSTOMS AND BORDER PROTECTION, U.S. DEPARTMENT OF HOMELAND SECURITY, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (zrdj) (Entered: 12/06/2018) |
| 12/07/2018 | <u>6</u> | REQUEST FOR SUMMONS TO ISSUE filed by AMERICAN OVERSIGHT.(Yenouskas, Joseph) (Entered: 12/07/2018) |
| 12/10/2018 | <u>7</u> | SUMMONS (6) Issued Electronically as to U.S. CITIZENSHIP AND IMMIGRATION SERVICES, U.S. CUSTOMS AND BORDER PROTECTION, U.S. DEPARTMENT OF HOMELAND SECURITY, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, U.S. Attorney and U.S. Attorney General (ztd) (Entered: 12/10/2018) |
| 12/11/2018 | | MINUTE ORDER: The Court has received the <u>3</u> <u>4</u> <u>5</u> Motions for Admission, <i>Pro Hac Vice</i> , as Additional Counsel for Plaintiff, with respect to Glenn S. Kerner, John Ilardo, and Stephen L. Taeusch, respectively. Those motions are GRANTED CONTINGENT upon each respective attorney's submission of a separate declaration by DECEMBER 18, 2018 , stating that he has reviewed and is familiar with the Local Rules of this Court. Signed by Judge Colleen Kollar-Kotelly on December 11, 2018. (lcckk1) (Entered: 12/11/2018) |
| 12/11/2018 | <u>8</u> | ORDER ESTABLISHING PROCEDURES FOR CASES ASSIGNED TO JUDGE COLLEEN KOLLAR-KOTELLY. Signed by Judge Colleen Kollar-Kotelly on 12/11/18. (DM) (Entered: 12/11/2018) |
| 12/13/2018 | <u>9</u> | NOTICE of Appearance by Scott Leeson Sroka on behalf of All Defendants (Sroka, Scott) (Entered: 12/13/2018) |
| 12/18/2018 | <u>10</u> | RESPONSE TO ORDER OF THE COURT re Order on Motion for Leave to Appear Pro Hac Vice,,,,,,, filed by AMERICAN OVERSIGHT. (Ilardo, John) (Entered: 12/18/2018) |
| 12/18/2018 | <u>11</u> | RESPONSE TO ORDER OF THE COURT re Order on Motion for Leave to Appear Pro Hac Vice,,,,,,, filed by AMERICAN OVERSIGHT. (Kerner, Glenn) (Entered: 12/18/2018) |
| 12/18/2018 | <u>12</u> | RESPONSE TO ORDER OF THE COURT re Order on Motion for Leave to Appear Pro Hac Vice,,,,,,, filed by AMERICAN OVERSIGHT. (Taeusch, Stephen) (Entered: 12/18/2018) |
| 01/02/2019 | <u>13</u> | NOTICE of Appearance by Austin Ridgely Evers on behalf of AMERICAN OVERSIGHT (Evers, Austin) (Entered: 01/02/2019) |
| 01/07/2019 | <u>14</u> | MOTION to Stay , MOTION for Extension of Time to <i>in Light of Lapse of Appropriations</i> by U.S. CITIZENSHIP AND IMMIGRATION SERVICES, U.S. CUSTOMS AND BORDER PROTECTION, U.S. DEPARTMENT OF HOMELAND SECURITY, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (Attachments: # <u>1</u> Text of Proposed Order)(Hudak, Brian) (Entered: 01/07/2019) |
| 01/08/2019 | | MINUTE ORDER: The Court has received Defendants' <u>14</u> Motion for a Stay and Extension of Time in Light of Lapse of Appropriations. Defendants indicate that Plaintiff takes no position on a "reasonably short" tolling of deadlines commensurate with the lapse in appropriations, but would oppose a general stay. Accordingly, in an exercise of the Court's discretion, the Court shall GRANT Defendants' <u>14</u> Motion. The Court shall STAY the deadline for Defendants' answer or other response to the Complaint. The deadline is tolled commensurate with the length of the lapse of appropriations to the U.S. Department of Justice, the U.S. Department of Homeland Security ("DHS"), and the defendant components of DHS whose appropriations have lapsed. The parties shall file a Joint Status Report within seven calendar days of the restoration of these agencies' funding and the resumption of their operations. This Joint Status Report shall include what the parties understand to be the new deadline for Defendants' answer or other response to the Complaint. Signed by Judge Colleen Kollar-Kotelly on January 8, 2019. (lcckk1) (Entered: 01/08/2019) |
| 02/01/2019 | <u>15</u> | Joint STATUS REPORT by AMERICAN OVERSIGHT. (Yenouskas, Joseph) (Entered: 02/01/2019) |

| | | |
|------------|-----------|--|
| 02/01/2019 | | MINUTE ORDER: The Court has received the parties' <u>15</u> Joint Status Report. The parties identify the restoration of government funding. Accordingly, the Court hereby LIFTS the stay in this matter. Defendants shall answer or otherwise respond to Plaintiff's <u>1</u> Complaint by FEBRUARY 15, 2019 . Signed by Judge Colleen Kollar-Kotelly on February 1, 2019. (lcckk1) (Entered: 02/01/2019) |
| 02/15/2019 | <u>16</u> | ANSWER to Complaint by U.S. CITIZENSHIP AND IMMIGRATION SERVICES, U.S. CUSTOMS AND BORDER PROTECTION, U.S. DEPARTMENT OF HOMELAND SECURITY, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT.(Sroka, Scott) (Entered: 02/15/2019) |
| 02/19/2019 | <u>17</u> | ORDER. The parties shall file the schedule not later than MARCH 21, 2019 . Signed by Judge Colleen Kollar-Kotelly on February 19, 2019. (lcckk1) (Entered: 02/19/2019) |
| 02/19/2019 | | Set/Reset Deadlines: The parties shall file a schedule by 3/21/2019. (dot) (Entered: 02/22/2019) |
| 03/04/2019 | <u>18</u> | ENTERED IN ERROR. . . .NOTICE of <i>Filing Proof of Service</i> by AMERICAN OVERSIGHT (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F)(Yenouskas, Joseph) Modified on 3/5/2019 (ztd). (Entered: 03/04/2019) |
| 03/05/2019 | | NOTICE OF ERROR re <u>18</u> Notice (Other); emailed to jyenuouskas@goodwinlaw.com, cc'd 6 associated attorneys -- The PDF file you docketed contained errors: 1. Incorrect event used, 2. Please refile document, 3. Please refile using the correct event selections under Service of Process, Summons Returned Executed as to... (ztd,) (Entered: 03/05/2019) |
| 03/05/2019 | <u>19</u> | RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. All Defendants, RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 12/12/2018. (Answer due for ALL FEDERAL DEFENDANTS by 1/11/2019.), RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 12/17/2018. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F)(Yenouskas, Joseph) (Entered: 03/05/2019) |
| 03/21/2019 | <u>20</u> | Joint STATUS REPORT by U.S. CITIZENSHIP AND IMMIGRATION SERVICES, U.S. CUSTOMS AND BORDER PROTECTION, U.S. DEPARTMENT OF HOMELAND SECURITY, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT. (Sroka, Scott) (Entered: 03/21/2019) |
| 04/01/2019 | | MINUTE ORDER: The Court has received the parties' <u>20</u> Joint Status Report, which indicates that Defendants are in the midst of searches and review of documents potentially responsive to Plaintiff's various Freedom of Information Act ("FOIA") requests. The parties disagree as to production rates and schedules for some of those FOIA requests, but there is no indication that Plaintiff sought expedited review as to any of its FOIA requests in this case. Accordingly, at this time, the Court shall not compel Defendants to diverge from their seemingly reasonable production rates and schedules. The Court notes that Defendant U.S. Citizenship and Immigration Services did not indicate whether it had conducted any searches regarding Item number two of the Further External Communications FOIA request; the Court assumes that Defendant has conducted a search, and it shall address the status of Item number two in the parties' next Joint Status Report. The parties shall file a further Joint Status Report by MAY 6, 2019 , including an update as to the status of Defendants' searches, review, and production, and proposing a schedule for further proceedings. The parties shall file a further Joint Status Report no later than every forty-five days thereafter, unless and until the Court orders otherwise. Signed by Judge Colleen Kollar-Kotelly on April 1, 2019. (lcckk1) (Entered: 04/01/2019) |
| 04/01/2019 | | Set/Reset Deadlines: Joint Status Report due by 5/6/2019, including an update as to the status of Defendants' searches, review, and production, and proposing a schedule for further proceedings. (dot) (Entered: 04/02/2019) |

| | | |
|------------|-----------|--|
| 05/06/2019 | <u>21</u> | Joint STATUS REPORT by U.S. CITIZENSHIP AND IMMIGRATION SERVICES, U.S. CUSTOMS AND BORDER PROTECTION, U.S. DEPARTMENT OF HOMELAND SECURITY, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT. (Sroka, Scott) (Entered: 05/06/2019) |
| 05/07/2019 | | MINUTE ORDER: The Court has received the parties' <u>21</u> Joint Status Report, which indicates that Defendants are in the midst of searches and review of documents potentially responsive to Plaintiff's various Freedom of Information Act ("FOIA") requests. At least one Defendant, U.S. Citizenship and Immigration Services ("USCIS"), has not met some of its proposed production deadlines identified in the last <u>20</u> Joint Status Report, nor has USCIS furnished justifications for those delays. In addition, USCIS did not comply with the Court's Minute Order of April 1, 2019, requiring USCIS to identify the status of Item number two of the Further External Communications FOIA request, nor has USCIS explained why it did not comply. By no later than MAY 15, 2019 , USCIS and Plaintiff shall submit a Joint Status Report identifying, with specificity, the status of both the External Communications FOIA request and all four items of the Further External Communications FOIA request, including USCIS's justifications for its delays evidenced in the <u>21</u> Joint Status Report. USCIS shall move with alacrity going forward. Consistent with the Court's Minute Order of April 1, 2019, all Defendants and Plaintiff shall file a further Joint Status Report by JUNE 20, 2019 , including an update as to the status of Defendants' searches, review, and production, and proposing a schedule for further proceedings. The parties shall file a further Joint Status Report no later than every forty-five days thereafter, unless and until the Court orders otherwise. Signed by Judge Colleen Kollar-Kotelly on May 7, 2019. (lcckk1) (Entered: 05/07/2019) |
| 05/07/2019 | | Set/Reset Deadlines: USCIS and Plaintiff shall file Joint Status Report by 5/15/2019, identifying, with specificity, the status of both the External Communications FOIA request and all four items of the Further External Communications FOIA request, including USCIS's justifications for its delays evidenced in the <u>21</u> Joint Status Report. USCIS shall move with alacrity going forward. Defendants and Plaintiff shall file a Joint Status Report due by 6/20/2019, including an update as to the status of Defendants' searches, review, and production, and proposing a schedule for further proceedings. (dot) (Entered: 05/07/2019) |
| 05/15/2019 | <u>22</u> | Joint STATUS REPORT by U.S. CITIZENSHIP AND IMMIGRATION SERVICES. (Sroka, Scott) (Entered: 05/15/2019) |
| 06/20/2019 | <u>23</u> | Joint STATUS REPORT by AMERICAN OVERSIGHT. (Yenouskas, Joseph) (Entered: 06/20/2019) |
| 06/24/2019 | | Case directly reassigned to Judge Carl J. Nichols. Judge Colleen Kollar-Kotelly is no longer assigned to the case. (ztnr) (Entered: 06/24/2019) |
| 08/05/2019 | <u>24</u> | Joint STATUS REPORT by U.S. CITIZENSHIP AND IMMIGRATION SERVICES, U.S. CUSTOMS AND BORDER PROTECTION, U.S. DEPARTMENT OF HOMELAND SECURITY, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT. (Sroka, Scott) (Entered: 08/05/2019) |
| 08/13/2019 | | MINUTE ORDER. In light of the Parties' <u>24</u> Joint Status Report, it is hereby ORDERED that the Parties shall submit an additional Joint Status Report by September 19, 2019. Signed by Judge Carl J. Nichols on August 13, 2019. (lccjn1) (Entered: 08/13/2019) |
| 08/13/2019 | | Set/Reset Deadlines: Joint Status Report due by 9/19/2019. (mac) (Entered: 08/13/2019) |
| 09/19/2019 | <u>25</u> | Joint STATUS REPORT by AMERICAN OVERSIGHT. (Yenouskas, Joseph) (Entered: 09/19/2019) |